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HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1038 OF 2007.

Maharashtra Jeevan Pradhikaran ..Petitioners.
Versus.
The State of Maharashtra & Others ..Respondents.

Smt. Neeta Karnik for the petitioner.

Mr. C. J. Sawant Sr. Advacoate with S. M. Sabrat for the respondent-3.

CORAM: S. B. MHASE &
R.S.MOHITE, JJ.
DATE: JUNE 13, 2007.

P.C.

1. Heard. This petition has been filed in view of the letter dated 28th February 2006 issued by the Special Land Acquisition Officer, National Highway Projects, Nasik. It appears that in a reference under section 18 of the Land Acquisition Act, the Reference Court has enhanced the amount of the acquired land and therefore the Recovery proceeding has been filed claiming Rs.1.45 lacs. Since the Acquisition Award has been passed by the Special Land Acquisition Officer, the execution has been filed as against the Acquisition Officer. However, as per the Acquisition Officer the land was acquired for the Maharashtra Jeevan Pradhikaran, namely, the petitioner, and therefore, the Land Acquisition Officer has informed and asked the petitioner to deposit the said amount.

Under these circumstances, the petitioner has approached to this Court stating that the land was acquired by the petitioner for the Malegaon Municipal Corporation, namely, the respondent no.3 and therefore, it is not the liability of the petitioner and it is the liability of the respondent no.1 - the State of Maharashtra and respondent no.3. In support of this contention the learned counsel has relied upon the decision of this Court Writ Petition No. 1169 of 2002 (dated 15th September 2005). It has been held in that petition that the liability is of the State Government and Malegaon Municipal Corporation. Therefore, the issue in respect of the liability inter-se between the petitioner and the State Government and the Malegaon Municipal Corporation is no more res-integra for this Court and that has been already decided. Ignoring the said judgment, if the Special Land Acquisition Officer is demanding the amount of compensation from the petitioner, then in that circumstance the petitioner can inform the Land Acquisition Officer about the decision in the above referred Writ Petition and can state that there is no obligation on the petitioner to pay the amount of compensation and if the petitioner is also a party in execution proceeding he can place the judgment of this Court before the Civil Court so that the Civil Court can take the appropriate action and decision.

3. Apart from that if the petitioner desires to execute the orders passed by this Court in Writ Petition No. 1169 of 2002, and therefore files another writ petition is misconceived, because once the issue has been decided under Article 226 the appropriate remedy for the petitioner is to file execution proceeding for enforcement of the order or decree as provided under Chapter-XVII Rule-23. In stead of following that remedy for execution of the order the petitioner has approached to this Court. Taking into consideration all these aspects we refrain to entertain this petition. We, therefore, reject the petition.

(R.S.MOHITE, J.) **(S.B.MHASE, J.)**